

HOUSE BILL NO. 174

INTRODUCED BY L. JENT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PERSON ~~UNDER 22 YEARS OF AGE~~ CONVICTED OF A FIRST VIOLATION OF CRIMINAL POSSESSION OF DANGEROUS DRUGS OR POSSESSION OF DRUG PARAPHERNALIA IS PRESUMED TO BE ENTITLED TO A DEFERRED IMPOSITION OF ANY SENTENCE OF ~~INCARCERATION~~ IMPRISONMENT; AND AMENDING ~~SECTION~~ SECTIONS 45-9-102 AND 45-10-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

SECTION 1. SECTION 45-9-102, MCA, IS AMENDED TO READ:

"45-9-102. Criminal possession of dangerous drugs. (1) A person commits the offense of criminal possession of dangerous drugs if ~~he~~ the person possesses any dangerous drug, as defined in 50-32-101.

(2) A person convicted of criminal possession of marijuana or its derivatives in an amount the aggregate weight of which does not exceed 60 grams of marijuana or 1 gram of hashish is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 and by imprisonment in the county jail for not more than 6 months. The minimum fine must be imposed as a condition of a suspended or deferred sentence. A person convicted of a second or subsequent offense under this subsection is punishable by a fine not to exceed \$1,000 or imprisonment in the county jail for a term not to exceed 1 year or in the state prison for a term not to exceed 3 years or both such fine and imprisonment.

(3) A person convicted of criminal possession of an anabolic steroid as listed in 50-32-226 is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than \$100 or more than \$500 or by imprisonment in the county jail for not more than 6 months, or both.

(4) A person convicted of criminal possession of an opiate, as defined in 50-32-101(19), shall be imprisoned in the state prison for a term of not less than 2 years or more than 5 years and may be fined not more than \$50,000, except as provided in 46-18-222.

(5) A person convicted of criminal possession of dangerous drugs not otherwise provided for in subsection (2), (3), or (4) shall be imprisoned in the state prison for a term not to exceed 5 years or be

1 fined an amount not to exceed \$50,000, or both.

2 (6) A person ~~of the age of 21 years or under~~ convicted of a first violation under this section is
3 presumed to be entitled to a deferred imposition of sentence of imprisonment.

4 (7) Ultimate users and practitioners and agents under their supervision acting in the course of a
5 professional practice, as defined by 50-32-101, are exempt from this section."

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7 **Section 2.** Section 45-10-103, MCA, is amended to read:

8 **"45-10-103. Criminal possession of drug paraphernalia.** It is unlawful for ~~any~~ a person to use or
9 to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest,
10 manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain,
11 conceal, inject, ingest, inhale, or otherwise introduce into the human body a dangerous drug. ~~Any~~ A person
12 who violates this section is guilty of a misdemeanor and upon conviction shall be ~~imprisoned~~ incarcerated
13 IMPRISONED in the county jail for not more than 6 months, fined an amount of not more than \$500, or both.
14 A person under 22 years of age convicted of a first violation of this section is presumed to be entitled to
15 a deferred imposition of sentence of incarceration IMPRISONMENT."

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